

Organization and Jurisdiction

of the

Courts of South Carolina

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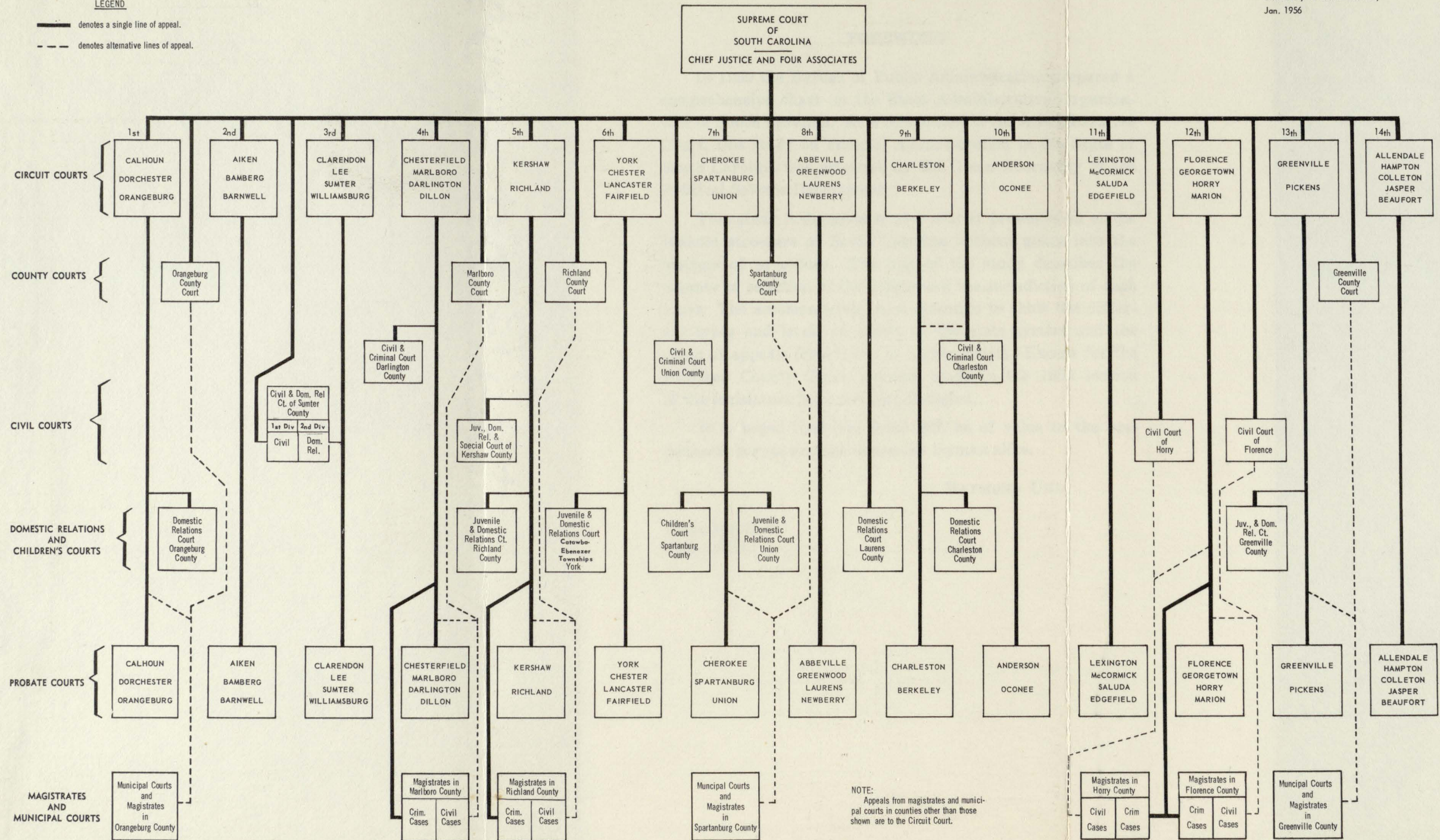
THE COURTS OF THE STATE OF SOUTH CAROLINA

Compilation by Glenn Abernathy, Ph. D.
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LEGEND

denotes a single line of appeal.

denotes alternative lines of appeal.



FOREWORD

In 1950 the Bureau of Public Administration prepared a comprehensive chart on the State Administrative Organization of South Carolina. As a companion to the Administrative Chart, this study on Judicial Administration in the State of South Carolina was prepared by Dr. Glenn Abernathy of the Political Science Department.

This study is designed to give a brief presentation of the judicial structure of South Carolina without going into the matters of procedure. The text of the study describes the manner of selection of the judges and the jurisdiction of each court. The accompanying chart attempts to show the different types and levels of courts in the state system and the chain of appeals from lower to higher courts. Except for the Richland County Court, changes made in the 1956 session of the legislature have not been included.

It is hoped that this study will be of value to the professional lawyer and the interested layman alike.

RAYMOND UHL.

Columbia, S. C.
June, 1956.

ORGANIZATION AND JURISDICTION OF THE COURTS OF SOUTH CAROLINA

Just fifty years ago at the American Bar Association meeting a young lawyer in his early thirties struck the spark which kindled the flame of progress in the field of administration of justice. The young lawyer was Roscoe Pound, whose statements now constitute the standard introduction to almost every discussion of judicial administration in the United States. The title of his address was "The Causes of Popular Dissatisfaction with the Administration of Justice." Among the several classes of causes which were discussed was the organization of the courts at the time. He said that the American system of courts was archaic in three respects: (1) in its multiplicity of courts, (2) in preserving concurrent jurisdictions, and (3) in the waste of judicial power which it involves. Not relieving any state of its share of blame, he said "The judicial organizations of the several states exhibit many differences of detail. But they agree in these three respects."

Instead of a multiplicity of courts, Pound recommended a unified court system. He stated:

"Where the appellate tribunal and the court of first instance are branches of one court, all expense of transfer of record, of transcripts, bills of exceptions, writs of error and citations is wiped out. The records are the records of the court, of which each tribunal is but a branch. The court and each branch thereof knows its own records, and no duplication and certification is required. Again, all appellate practice, with its attendant pitfalls, and all waste of judicial time in ascertaining how or whether a case has been brought into the court of review is done away with. . . . The whole attention of the court and of counsel is concentrated upon the cause. On the other hand, our American reports bristle with fine points of appellate procedure. . . . All of this is sheer

waste, which a modern judicial organization would obviate."

With reference to the system of concurrent jurisdictions, Pound recommended that all original jurisdiction should be concentrated.

"It ought to be impossible for a cause to fail because brought in the wrong place. A simple order of transfer from one docket to another in the same court ought to be enough. There should be no need of new papers, no transcripts, no bandying of cases from one court to another on orders of removal and of remand, no beginnings again with new process."

As to the matter of waste of judicial power, the important objection made by Pound was that by establishing rigid districts or courts or jurisdictions, business may be congested in one court while judges in another are idle. His recommendations on this point centered in a greater flexibility in the unified court system so that judges and cases could be shifted about as the pressure of business required.

It is not the purpose of this presentation of South Carolina Courts either to recommend or to condemn the present organization. However, if changes are considered, it is proper to look first at the over-all picture of the organization of the state system of courts. The purpose of this presentation is to give such a picture in reasonably concise form. For the person trained in legal matters, no further comment is necessary. For those not so versed, however, a few words of explanation are included prefatory to the individual statements of organization and jurisdiction of South Carolina courts.

The average citizen prefers to limit his contact with the courts to the role of spectator and generally will have little knowledge of the organization and authority of courts, unless his experience as a juror has been fairly broad. It is the purpose of this brief presentation and accompanying chart to give an over-all picture of the courts of South Carolina without going into matters of procedure. The text describes the manner of selection of the judges and the jurisdiction of each court, and the chart is an attempt to show the different types and levels of courts in the state system and also the

chain of appeals from lower to higher courts. Since the descriptions are not exhaustively complete, some errors of omission may result.

While some of the courts in the state are established under specific direction of the state constitution, a number of other courts are established by legislative action alone. The General Assembly of South Carolina has broad authority to modify, add new courts or abolish existing lower courts. Since the assembly meets annually, fairly frequent changes in the jurisdiction and number of courts are made, although the changes are ordinarily minor ones.

Each state has a court of last resort, which in South Carolina (but not in all states) is called the Supreme Court. In many states there is an intermediate court of appeals, but not in South Carolina.

Next below the State Supreme Court is the Circuit Court, which is a trial court of general jurisdiction. It is more commonly referred to in terms of one or the other of its two divisions: the Court of Common Pleas or the Court of General Sessions. These are simply the two components of the Circuit Court. Common Pleas is the court for determining civil cases, while criminal cases are tried in the Court of General Sessions.

Below the Circuit Court there is a wide variety of courts of limited jurisdiction, generally referred to as inferior courts. These include county courts, probate courts, juvenile and domestic relations courts, magistrates courts and recorders courts and other special courts.

In defining the powers and authority of certain courts, the term "jurisdiction of the court" is frequently used. This refers generally to the territorial coverage of the court's powers and also to the kinds of cases which may be heard and decided in that court.

The broadest and most fundamental division of jurisdiction is that between civil actions and criminal actions. In general a criminal action is defined as one prosecuted by the state against a person charged with a public offense and initiated for the purpose of punishing that person. Every other action is a civil action.

From time to time the General Assembly has established inferior courts in various counties. In setting up a specific court of this sort, the General Assembly will provide that the court can hear and determine only certain kinds of cases. The court so established will, then, be a court of limited jurisdiction. It may have only civil jurisdiction or only criminal jurisdiction. Or it may have both types of jurisdiction but to a limited degree. Article V, section 1, of the Constitution of South Carolina specifically states that no court inferior to the Circuit Courts can be invested with jurisdiction to try cases of murder, manslaughter, rape or attempt to rape, arson, common law burglary, bribery or perjury. Within this restriction the General Assembly has broad leeway in establishing the inferior courts. As an illustration, the Marlboro County Court can hear only civil cases. The Spartanburg County Court, on the other hand, can try both civil and criminal cases.

Some courts can hear both civil and criminal cases, but not large claims for money or the more serious criminal offenses. For example, the Greenville County Court can hear a case involving a suit for \$5,000 or less, but not one for a larger claim. It could determine a prosecution for simple assault, but not a prosecution for murder. The only court in South Carolina which can hear and determine prosecutions for more serious crimes and also has jurisdiction over claims involving unlimited sums of money is the Circuit Court.

Since there is such a great variety of civil actions, there is greater difficulty in attempting to describe a court which is vested with limited civil jurisdiction. Civil actions in state courts may be divided into three categories: cases at law, cases in equity (or chancery) and special proceedings.

Cases at law mainly arise out of civil wrongs, called torts, and contracts. In most actions at law, the plaintiff is seeking money damages. He sues for money to compensate him for damage to property, or personal injury, or injury to reputation, or perhaps he sues to recover damages incurred as a result of breach of contract. There are several other types of actions at law including requests for habeas corpus, mandamus, prohibition, and other writs. In any event, the action at law is an attempt to obtain a remedy after a wrong has been

done, and the court's judgment in such cases is termed *remedial*.

Sometimes, however, an individual may prefer to seek the court's intervention in order to *prevent* the damage if he can foresee it and is unable otherwise to prevent it. This would be true particularly if the damage or injury could not be compensated for by simple payment of money or if the damage about to be sustained could not be calculated in terms of money damage. For example, an irreplaceable antique or landmark may be in danger of destruction. In such a case the value of the property may be impossible to calculate. In any event, if the individual concerned is forewarned of the danger the better approach to the problem would seem to be to try to prevent the damage from occurring. But a "law" court can only offer a remedy after injury is incurred, and not preventive action. The only courts which can give preventive relief are courts of equity. The case illustrated, then, would be one type of action in equity, and would be a proper case for an injunction to issue. Another illustration of assistance offered in a court of equity is the order for specific performance of a contract. If a party to a contract cannot be sufficiently compensated for a breach by money damages, then it is possible under certain circumstances to bring an action in a court of equity to force the other party to give specific performance of the terms of the contract. These are only two examples of the powers of a court of equity to afford substantial justice when a court of law cannot offer an adequate remedy.

The third type of civil cases is known as special proceedings. Into this category may be placed divorce proceedings and proceedings by a governmental unit to take over private property for some public purpose, the latter generally referred to as condemnation proceedings.

Altogether, then, there are three types of civil cases and the general body of criminal cases which courts in the state may hear and determine. The General Assembly may empower any given lower court with jurisdiction over one or more of these various types of cases, and it may grant the jurisdiction to a limited degree in each type.

As a final aspect of jurisdiction, there is the distinction between original and appellate jurisdiction. A court may hear

cases which are being presented for initial determination. This is described as the original jurisdiction of the court. Or it may hear cases on appeal in which final judgment was reached in some lower court. This is described as the appellate jurisdiction of the court. A court may be restricted to only one of these types of cases or it may have both original and appellate jurisdiction.

Brief mention should be made of the composition and use of juries in the courts of South Carolina. The grand jury is a device which serves the purpose of determining whether the evidence that an accused has committed a crime is of sufficient weight to require that the accused be subjected to trial for the crime. Article 1, section 17, of the South Carolina Constitution states that only upon indictment or presentment of a grand jury can a person be tried for a crime where the punishment exceeds a fine of one hundred dollars or imprisonment for thirty days. Article 5, section 22, of the Constitution states that the grand jury of each county shall consist of eighteen members, twelve of whom must agree on an indictment before the matter can be submitted to trial.

The trial jury, or petit jury, is also described in Article 5, section 22 of the Constitution. All persons charged with an offense have the right to demand and obtain a trial by jury. Juries in the Circuit Courts number twelve, while those in inferior courts contain only six members. In both civil and criminal cases the verdict of the jury requires a unanimous vote.

In the following description of each court the pattern is to show the manner of selecting the judge, the territorial coverage of the court's powers, the cases which it may hear for the first time (original jurisdiction), the cases which it may hear on appeal (appellate jurisdiction) and the line of appeal from its own judgments.

Since the salaries of inferior court judges are frequently changed by local laws, only the Supreme Court and Circuit judges' salaries are shown.

SOUTH CAROLINA SUPREME COURT

(*Constitution*, 1895, Art. 5, Secs. 1, 2, 4, 12;

Code, 1952, Secs. 15-101 and ff.)

Justices: Chief Justice and four Associate Justices, elected by joint vote of the General Assembly for ten year terms, with one term expiring every two years. Three judges constitute a quorum for the transaction of business, but the concurrence of three justices is necessary for the reversal of a decision of a lower court.

En banc Procedure—when two or more justices so request, the Chief Justice shall call to the assistance of the Supreme Court all the judges of the Circuit Court. A majority of the Supreme and Circuit Court judges constitutes a quorum, and a majority decision of the court so constituted is final.

Original Jurisdiction: The Court may issue writs of injunction, mandamus, quo warranto, prohibition, certiorari, habeas corpus and other original and remedial writs. Each of the justices has the power at chambers to issue these writs just as in open court, provided always that an appeal is allowed from his decision to the Supreme Court.

Appellate Jurisdiction: The Court has appellate jurisdiction in cases of chancery, and in such appeals it shall review the findings of fact as well as the law, except in chancery cases when the facts are settled by a jury and the verdict not set aside. It constitutes a court for the correction of errors of law in law cases, under such regulations as the General Assembly may by law prescribe.

Salaries: \$13,500 annually for the Chief Justice, and \$12,500 annually for the Associate Justices.

CIRCUIT COURTS

(*Constitution*, 1895, Art. 5, Secs 1, 15, 18;

Code, 1952, Secs. 15-201 and ff.)

Judges: One judge for each Circuit (the number of Circuits to be set by the General Assembly, and now fourteen);

judges elected by joint vote of the General Assembly for a term of four years.

If at any time a Circuit Judge dies or is unable to hold court, or if the docket in any circuit becomes overcrowded, the chief justice of the Supreme Court may assign any disengaged circuit judge to hold such courts. If no circuit judge is available for transfer, the Governor shall immediately commission as special judge some person "learned in the law" who is recommended by the Supreme Court.

Original Jurisdiction: Court of Common Pleas: (The civil division of the Circuit Court.) The Court may issue writs of injunction, mandamus, habeas corpus and such other writs as are necessary to effectuate their powers. It shall have jurisdiction in all civil cases. *Court of General Sessions:* (The criminal division of the Circuit Court.) The Court has jurisdiction in all criminal cases except those in which exclusive jurisdiction is given to inferior courts.

Appellate Jurisdiction: The Court can hear appeals in all cases within the jurisdiction of inferior courts, except from such inferior courts from which the General Assembly shall provide direct appeal to the Supreme Court.

Salaries: \$12,500 annually.

GREENVILLE COUNTY COURT

(Code, 1952, Sec. 15-641 and ff.)

Judge: Nominated by the Greenville Bar Association from among its members, approved by the Greenville County legislative delegation, and appointed by the Governor for a term of four years.

Original Civil Jurisdiction: The Court has concurrent jurisdiction with the court of common pleas in all civil cases and special proceedings, both at law and equity, except in cases involving an amount claimed or property claimed which exceeds \$5,000. The court has concurrent jurisdic-

tion with the court of common pleas in actions for divorce from bonds of matrimony.

Original Criminal Jurisdiction: The Court has concurrent jurisdiction with the court of general sessions to try and determine all criminal cases except cases for murder, manslaughter, rape, attempt to rape, arson, common law burglary, bribery and perjury.

Appellate Civil Jurisdiction: Concurrent with the court of common pleas to hear appeals from:

(1) Probate Court, except in cases involving amount claimed or property claimed which exceeds \$5,000;

(2) Preliminary boards or commissions in condemnation proceedings except in cases involving amount claimed or property claimed which exceeds \$5,000;

(3) The South Carolina Industrial Commission or other administrative boards;

(4) Judgments rendered by magistrates.

Appellate Criminal Jurisdiction: The Court can hear and determine appeals in all criminal cases from the magistrates' courts and from municipal courts or town council of any cities in Greenville County.

Appeal: Appeals from the Court are to the Supreme Court.

MARLBORO COUNTY COURT

(*Constitution*, 1895, Art. 5, Sec. 1-A;

Code, 1952, Sec. 15-681 and ff.)

Judge: Nominated by the Marlboro County Bar Association from among its members, and appointed by the Governor for a term of four years.

Original Jurisdiction: The Court has concurrent jurisdiction with the court of common pleas in all civil cases and special proceedings, both at law and in equity, except in cases involving an amount claimed or property claimed which exceeds \$7,500. The court has concurrent juris-

diction with the court of common pleas in cases of divorce. The court has no criminal jurisdiction.

Appellate Jurisdiction: The court has concurrent jurisdiction with the court of common pleas to hear appeals in civil cases from judgments rendered by magistrates' courts.

Appeal: Appeal from the Court is to the Supreme Court.

ORANGEBURG COUNTY COURT

(Code, 1952, Sec. 15-701 and ff.)

Judge: Nominated by the Orangeburg County Bar Association from among the members of the county bar, and appointed by the Governor for a term of four years.

Original Civil Jurisdiction: The Court has concurrent jurisdiction with the court of common pleas in all civil cases and special proceedings, both at law and in equity, except in cases involving an amount claimed or property claimed which exceeds \$5,000. The court has concurrent jurisdiction with the court of common pleas in cases of divorce.

Original Criminal Jurisdiction: The Court has concurrent jurisdiction with the court of general sessions in all criminal cases, except murder, manslaughter, rape, attempt to rape, arson, common law burglary, bribery, perjury and forgery and it has concurrent jurisdiction with the magistrates' courts in all criminal cases within the latter's jurisdiction.

Appellate Jurisdiction: The Court has concurrent jurisdiction with the circuit court to hear and determine all appeals in civil and criminal cases from judgments rendered by the magistrates' courts and all other inferior courts.

Appeal: Appeal from the Court is to the Supreme Court.

RICHLAND COUNTY COURT

(Acts, 1956, No.)

Judges: Two county judges with concurrent jurisdiction, elected by county-wide vote for terms of four years.

Original Criminal Jurisdiction: Concurrent with the court of general sessions to try and determine all criminal cases except cases for murder, manslaughter, rape, assault with intent to ravish, arson, common law burglary, perjury, and except cases in which the maximum penalty is in excess of ten years.

Original Civil Jurisdiction: Concurrent with the court of common pleas in all civil cases and special proceedings, both at law and in equity, except in cases involving an amount claimed or property claimed which exceeds \$10,000. The court has concurrent jurisdiction with the court of common pleas in actions relating to divorce from the bonds of matrimony.

Appellate Jurisdiction: The court has concurrent jurisdiction with the circuit court to hear and determine all appeals in civil cases from judgments rendered by magistrates' courts. The court has concurrent jurisdiction with the circuit court to determine appeals in all criminal cases from magistrates' court, municipal court or town councils of any of the cities and towns in the county.

Appeal: Appeal from the court is to the Supreme Court.

SPARTANBURG COUNTY COURT

(Code, 1952, Sec. 15-791 and ff.)

Judge: Nominated by the Spartanburg county legislative delegation from among the members of the county bar, and appointed by the Governor for a term of four years.

Original Civil Jurisdiction: The Court has concurrent jurisdiction with the court of common pleas in all civil cases and special proceedings, both at law and in equity, except in cases involving an amount claimed or property claimed which exceeds \$6,000. The Court has concurrent jurisdiction with the court of common pleas in cases of divorce.

Original Criminal Jurisdiction: The Court has concurrent jurisdiction with the court of general sessions in all criminal cases, except murder, manslaughter, rape, at-

tempt to rape, arson, common law burglary, bribery, perjury and forgery and concurrent jurisdiction with the magistrates' courts in all criminal cases within the latter's jurisdiction.

Appellate Jurisdiction: The Court has concurrent jurisdiction with the circuit court to hear and determine all appeals in civil and criminal cases from judgments rendered by the magistrates' courts and all other inferior courts.

Appeal: Appeal from the Court is to the Supreme Court.

CIVIL AND CRIMINAL COURT OF CHARLESTON

(Code, 1952, Sec. 15-1501 and ff.)

Judge: Elected by Charleston County voters for term of four years.

Territorial Jurisdiction: City of Charleston and that part of the county west of the Cooper River.

Civil Jurisdiction: Cases where amount claimed or value of property in controversy does not exceed \$3,000. No chancery cases, or title to real estate.

Criminal Jurisdiction: All crimes except murder, manslaughter, rape, attempt to rape, common-law burglary, bribery or perjury and except in other cases in which the maximum sentence may be imprisonment for more than ten years.

Appeals: All appeals in civil cases are to the Circuit Court. In non-indictable criminal cases appeals are to the Circuit Court. In criminal cases in which the defendant has been indicted by grand jury, appeal lies to the South Carolina Supreme Court.

CIVIL AND CRIMINAL COURT OF DARLINGTON COUNTY

(Acts, 1955, No. 117)

Judge: Nominated by Darlington County Bar Association, approved by Darlington County Legislative Delegation

(including senator), and appointed by Governor for a term of six years. (Initial judge appointed by Governor upon recommendation of Legislative Delegation only.)

Territorial Jurisdiction: All of Darlington County except that portion formerly known as Pond Hollow School District.

Civil Jurisdiction: Concurrent with Common Pleas in all civil cases in law and equity except where amount demanded or value of property involved exceeds \$6,000; includes actions of divorce, annulment and custody and maintenance of children. No cases where title to real estate in question. Judge may act as referee.

Criminal Jurisdiction: Violation of state liquor laws, nonsupport of wife or child, bastardy, uttering fraudulent check, driving while intoxicated, disposing of property under a lien, and all other state crimes when punishment does not exceed a fine of \$500 and/or imprisonment of eighteen months.

Appeals: Appeals in all cases are to the Circuit Court.

CIVIL AND CRIMINAL COURT OF UNION

(Acts, 1955, No. 80)

Judge: Appointed by the Governor for four year term, upon recommendation of a majority of the Union County Legislative Delegation.

Territorial Jurisdiction: Union, Bogansville, Cross Keys, Goshen Hill, Jonesville, Santuc and Pinckney Townships in Union County.

Civil Jurisdiction: Concurrent with the Circuit Court in all cases, both at law and equity, in which the amount demanded does not exceed \$6,000, and in all other civil cases where right involved cannot be measured in money value. Concurrent with Circuit Court in actions of divorce from bonds of matrimony and alimony and settlement of property rights concerned.

Criminal Jurisdiction: Concurrent with Circuit Court in all criminal cases except murder, manslaughter, rape, attempt to rape, arson, common law burglary, bribery, perjury and forgery and concurrent jurisdiction with the magistrates' courts in all criminal cases within their jurisdiction.

Appellate Jurisdiction: Concurrent with Circuit Court to hear and determine all appeals in civil and criminal cases from judgments rendered by magistrate's courts and all other inferior courts.

Appeals: Appeal is to the Supreme Court.

THE CIVIL COURT OF FLORENCE

(Code, 1952, Secs. 15-1601 and ff.)

Judge: Nominated by the members of the bar within the territorial jurisdiction of the Court, appointed by the Governor, confirmed by the Senate, for a term of four years.

Territorial Jurisdiction: The city of Florence and seventeen adjacent townships in the county.

Original Jurisdiction: The Court has jurisdiction to try and determine all civil cases, both at law and in equity, in which the amount claimed does not exceed the sum of \$5,000 and in all other civil cases and special proceedings, in which the right cannot be monetarily measured. The Court has concurrent jurisdiction with the court of common pleas in actions for divorce from bonds of matrimony if one party shall have been a resident of the jurisdictional territory for six months.

Appellate Jurisdiction: The Court has jurisdiction to hear and determine appeals in civil cases from judgments of magistrates within the Court's jurisdictional territory.

Appeal: Appeal from the Court is to the Supreme Court.

THE CIVIL COURT OF HORRY

(Acts, 1953, No. 99)

Judge: Nominated by the County Bar Association, appointed by the Governor for a term of four years.

Territorial Jurisdiction: All of Horry County except that portion between Lumber River and the A. C. L. Railroad.

Jurisdiction: Concurrent with the court of common pleas to try and determine all civil cases, both at law and equity, where value of property in controversy or the amount claimed does not exceed \$5,000, but shall not extend to cases where title to real estate is in question.

Appellate Jurisdiction: Concurrent with the circuit court to hear and determine all appeals in civil cases for judgment rendered by magistrates' courts.

Appeals: Appeals are to the Supreme Court.

DOMESTIC RELATIONS COURT OF THE COUNTY OF CHARLESTON

(Code, 1952, Secs. 15-1111 and ff.)

Judge: Commissioned by Governor for term of seven years, upon appointment by four-fifths of following: resident judge of circuit court of the county, recorder of the City of Charleston police court, probate judge of the county, circuit solicitor of the circuit, and the judge of the Civil and Criminal Court of Charleston. Associate judge appointed in the same manner for five-year term.

Jurisdiction:

Children's Court Division—Exclusive original jurisdiction within the county to hear and determine all cases or proceedings involving the hearing, trial, parole, probation, remand or commitment of children under sixteen years of age when the act or offense is alleged to have been committed, who are delinquent, physically handicapped, material witnesses, mental defectives, or neglected. It may appoint guardians for such children, grant orders for adop-

tion, determine custody, and require parents or guardians to provide for their care and maintenance. It may make parties to the proceedings any persons allegedly contributing to delinquency and may enjoin the further contributing to delinquency.

Family Court Division—May hear and determine all proceedings to compel the support of a wife or child; to insure the protection, guardianship and disposition of neglected or dependent minors, including medical or surgical care. Concurrent with circuit court it may determine actions for separation, divorce from bed and board and custody and adoption of children and may determine the validity of any marriage. If one party has a year's residence, the court may determine actions for divorce from bonds of matrimony.

Appeal: Appeal is to the court of common pleas of Charleston County.

JUVENILE AND DOMESTIC RELATIONS COURT OF GREENVILLE COUNTY

(Acts, 1954, No. 744)

Judge: Nominated by a majority of the advisory board and appointed by the Governor for a term of four years. The advisory board consists of nine members, seven of whom are appointed by the legislative delegation of the county. The president and vice president of the Greenville County Bar Association serve as ex officio members of the advisory board.

Jurisdiction: Exclusive original jurisdiction in actions concerning any child under eighteen years of age who is neglected or abandoned, whose environment or associations might injure his welfare or others, who is alleged to have violated any state or local law or municipal ordinance, whose custody is under controversy, or who is mentally ill or defective. A child charged with murder, manslaughter, rape, attempted rape, arson, common law burglary, bribery or perjury, assault and battery or larceny, may be tried in the Circuit Court if the procedure outlined in

the Act is followed. If a child sixteen years of age or older is charged with an offense which would be a felony if committed by an adult, the court may, in its discretion, certify such child for proper criminal proceedings to any court which would have trial jurisdiction of such offense if committed by an adult.

The court may appoint guardian or commit a child to custody. The court has concurrent criminal jurisdiction over cases involving an adult charged with bastardy, deserting or failing to support wife or minor dependent children, contributing to delinquency of a minor, and all offenses relating to ill-treatment or cruelty to children. The court may determine actions in divorce from bonds of matrimony concurrent with Greenville County Court.

Appeal: Appeal is to the Circuit Court.

THE JUVENILE, DOMESTIC RELATIONS AND SPECIAL COURT OF KERSHAW COUNTY

(Acts, 1955, No. 322)

Judge: The Master of Kershaw County serves as judge of the Court. He is elected by the voters of Kershaw County for a term of four years.

Territorial Jurisdiction: All of Kershaw County except that portion inundated by the waters of Wateree Lake at high water level.

Jurisdiction: Court is composed of three divisions.

(A) *Special Division:* Default actions in law and equity wherein a jury trial is not required or authorized and amount demanded or value of property involved does not exceed \$1,000. No case where title to real estate is in question. Jurisdiction to include mortgage foreclosure where amount demanded or value involved does not exceed \$1,000.

(B) *Domestic Relations Division:* Concurrent with Circuit Courts in actions for separation, divorces, custody and adoption of children, and annulment. May decide

actions for support of wife or child and for protection, guardianship and disposition of neglected or dependent minors.

(C) *Juvenile Division*: Exclusive original jurisdiction concerning neglected or abandoned children, those alleged to have violated any state or local law, those in injurious environments, those who are mentally defective, who are under eighteen years of age. Having acquired jurisdiction, the court may, if necessary, retain such jurisdiction until the child becomes twenty-one.

A child charged with murder, manslaughter, rape, attempted rape, arson, common law burglary, bribery or perjury, riot, assault and battery, or larceny, may be tried by the Circuit Court if the procedure outlined in the Act is followed.

Appeal: Appeal is to the Circuit Court.

DOMESTIC RELATIONS COURT OF LAURENS COUNTY

(*Acts*, 1951, No. 140; *Acts*, 1953, No. 448.)

Judge: Nominated by the county bar association, certified by legislative delegation, including the Senator, and appointed by the Governor for a term of two years.

Jurisdiction: Jurisdiction over the person of minors, persons legally chargeable with support of wife or child and divorce. Jurisdiction in cases involving offenses of and the welfare of minor children, except lunacy proceedings, and cases involving any delinquent or neglected minor child.

Appeal: Appeal is to the Supreme Court of the State.

DOMESTIC RELATIONS COURT OF ORANGEBURG COUNTY

(*Acts*, 1955, No. 197.)

Judge: Nominated by the Orangeburg County Bar Association, certified by the county legislative delegation (in-

cluding the Senator) and appointed by the Governor for a term of two years.

Jurisdiction: (A) Domestic Relations—Concurrent with Circuit Court in actions for separation and custody of children, and may hear and determine annulment proceedings. May compel support of a wife or child. Has jurisdiction for the protection, guardianship and disposition of neglected or dependent minors. (B) Juvenile offenders—exclusive original jurisdiction concerning neglected or abandoned children, those alleged to have violated any state or local law or municipal ordinance, excepting traffic regulations, those who are mentally defective, who are under eighteen years of age. Having acquired jurisdiction, the court may, if necessary, retain such jurisdiction until the child becomes twenty-one.

A child charged with murder, manslaughter, rape, attempted rape, arson, common law burglary, bribery, perjury, riot, assault and battery or larceny, may be tried in the Circuit Court if the procedure outlined in the Act is followed. If a child sixteen years of age or older is charged with an offense which would be a felony if committed by an adult, the court may in its discretion certify such child for proper criminal proceedings to any court which would have trial jurisdiction of such offense, if committed by an adult.

Appeal: Appeal is to the Supreme Court.

JUVENILE DOMESTIC RELATIONS COURT OF RICHLAND COUNTY

(Code, 1952, Secs. 15-1111 and ff.)

Judge: Nominated by bar association of the county, certified by legislative delegation, and commissioned by Governor for term of five years.

Jurisdiction:

Children's Court Division: Exclusive original jurisdiction within the county to hear and determine all cases or proceedings involving the hearing, trial, parole, proba-

tion, remand or commitment of children under eighteen years of age when the act or offense is alleged to have committed, who are delinquent, physically handicapped, material witnesses, mental defectives, or neglected. It may appoint guardians for such children, grant orders for adoption, determine custody, and require parents or guardians to provide for their care and maintenance. It may make parties to the proceedings any persons allegedly contributing to delinquency and may enjoin the further contributing to delinquency.

Family Court Division: Jurisdiction to hear and determine all proceedings to compel the support of a wife or child; to insure the protection, guardianship and disposition of neglected or dependent minors, including medical or surgical care. Concurrent with circuit court it may determine actions for separation, divorce from bed and board and custody and adoption of children and may determine the validity of any marriage. If one party has a year's residence, the court may determine actions for divorce from bonds of matrimony.

Appeal: Appeal is to the court of common pleas of Richland County.

CHILDREN'S COURT OF SPARTANBURG COUNTY

(Code, 1952, Secs. 15-1331 to 15-1338)

Judge: Appointed by Governor for term of one year upon recommendation of a majority of the advisory board of the court. The advisory board is composed of seven electors of Spartanburg County, who shall be appointed by the Governor for a term of six years, upon recommendation of a majority of the legislative delegation of Spartanburg County.

Jurisdiction: The court has exclusive jurisdiction of any case of a child less than sixteen years of age who is delinquent, dependent or neglected, and of all other persons involved with or contributing to the dependency or de-

linquency of any child in the county. The court has jurisdiction over adoption proceedings and legitimation proceedings.

Appeal: Appeal lies to the circuit court of Spartanburg County.

CIVIL AND DOMESTIC RELATIONS COURT OF SUMTER COUNTY

(Acts, 1954, No. 575; Acts, 1955, No. 241.)

Judge: Recommended by a majority of the Sumter County Bar Association, appointed by the Governor for a term of six years.

Territorial Jurisdiction: All of Sumter County except that portion lying east of State Highway No. 341.

Jurisdiction:

First Division (Civil Court) — May determine cases where amount claimed or value of property in controversy does not exceed \$5,000, but does not extend to cases where title to real estate is in question. Concurrent with Circuit Court to hear and determine all appeals in civil cases for judgment rendered by magistrates' courts.

Second Division (Domestic Relations Court) — Concurrent with Circuit Court in actions for separation, divorce from bed and board and absolute divorce, and custody and adoption of children, and annulment. May hear and determine all proceedings to compel the support of a wife or child and shall have jurisdiction for the protection, guardianship and disposition of neglected or dependent minors. The court has original and exclusive jurisdiction concerning neglected or abandoned children, those alleged to have violated any state or local law or municipal ordinance, those who are mentally defective, who are under seventeen years of age.

A child charged with murder, manslaughter, rape, attempted rape, arson, common law burglary, bribery, riot,

assault and battery, or larceny, may be tried in the Circuit Court if the procedure outlined in the Act is followed.

Appeal: Appeal from the Civil Court is direct to the Supreme Court. Appeal from the Domestic Relations Court is to the Circuit Court.

JUVENILE AND DOMESTIC RELATIONS COURT OF UNION COUNTY

(Acts, 1955, No. 90)

Judge: The Judge of the Civil and Criminal Court of Union is ex officio the judge of the Court.

Jurisdiction: The Court has exclusive original jurisdiction within the county to hear and determine all cases involving the hearing, trial, parole, probation, remand or commitment of children who are delinquent, physically handicapped, material witnesses, mental defectives, or neglected. It has jurisdiction to appoint guardians of such children and to grant orders for the adoption of such children. The Court may issue orders for medical care or commitment of such children. Persons contributing to the delinquency or neglect of a child may be made parties to proceedings in the Court. The Court also has jurisdiction to hear and determine all proceedings to compel support of a wife or child, including the power to make an "order of protection" setting forth conditions of behavior for husbands or wives or both. The Court has concurrent jurisdiction with the court of common pleas in actions for divorce from bonds of matrimony.

Appeal: Appeal from the Court is to the court of common pleas.

JUVENILE AND DOMESTIC RELATIONS COURT OF CATAWBA-EBENEZER TOWNSHIPS, YORK COUNTY

(Acts, 1947, No. 596.)

Judge: Appointed for a one-year term by the Governor upon recommendation of the Court Commission. The commis-

sion is composed of seven members: one from ministry, one from school or college officials or teachers, two from the bar, and three from the public at large.

Jurisdiction: (for Catawba and Ebenezer townships only)—

Exclusive original jurisdiction to hear and determine cases concerning any child under sixteen years of age when act complained of took place, who is alleged to be delinquent, physically handicapped, a material witness, mental defective, or neglected; and the court may also appoint guardians and grant orders for adoption and determine controversies over custody. The court may refer to any proper magistrate any delinquent child who it may conclude should be tried in the criminal courts. It may restrain persons contributing to delinquency of children. It may compel support of wife or child, including the necessary food, shelter, medical, educational expenses, and others. It may issue an "order of protection" to include specific conditions of behavior of either or both spouses or interested parties.

The court's jurisdiction may extend to cases arising outside its territorial limits but within York County when the parties affected shall so request in writing.

Appeal: Appeal lies to the Court of Common Pleas for York County.

PROBATE COURTS

(*Constitution*, 1895; Art. 5, Sec. 19;

Code, 1952, Secs. 15-401 and ff.)

Judge: Judges of probate courts are elected by the qualified electors of the respective counties for the term of four years.

Jurisdiction: In all matters testamentary and of administration, in business appertaining to minors and the allotment of dower and in cases of mental incompetency. Court may ascertain claims against the estate of a deceased person, grant letters of administration if death is intestate, letters of guardianship if heir is a minor, letters

testamentary if the fiduciary is named in the will, or of trusteeship if a trust is created by will. The probate judge issues marriage licenses. Where separate juvenile courts have not been established, the probate judge serves as juvenile judge. In many counties the probate judge serves as master, and receives the additional fees allowed such masters or referees.

Appeal: Appeal lies to the Circuit Court of the respective county, except that appeal from the Greenville County Probate Court may be taken alternatively to the Greenville County Court if the amount involved does not exceed \$5,000 and is civil in nature.

MAGISTRATES' COURTS

(*Constitution*, 1895, Art. 5, Secs 20-23;

Code, 1952, Secs. 43-1 to 43-1093.)

Magistrate: Nominated in the primary, appointed by the Governor, with consent of Senate, for term of two years.

Territorial Jurisdiction: Generally county-wide, but in many counties the legislature has reduced this jurisdiction to one or more townships. (See *Code*, 1952, Title 43, Ch. 5.)

Civil Jurisdiction: Jurisdiction extends to civil cases generally, but not to cases where the value of property in controversy, or the amount claimed, exceeds \$100, or to cases where the title to real estate is in question, or to cases in chancery.

Criminal Jurisdiction: Exclusive jurisdiction in such criminal cases as the General Assembly may prescribe, but such jurisdiction shall not extend to cases where the punishment exceeds a fine of \$100 or imprisonment for thirty days. Magistrates, therefore, cannot impose both a fine and a jail sentence. In criminal matters beyond their jurisdiction to try, they may sit as Examining Courts, and commit, discharge, or, except in capital cases, recognize persons charged with such offenses. They also have the power to bind over to keep the peace and for good behavior for a time not to exceed a year.

Exceptions to term of office above: The term of office is four years for magistrates in the counties of Aiken, Hampton, Berkeley, Florence, Richland, Allendale, Clarendon, Pickens and Union.

Exceptions to Jurisdiction above: (1) In Sumter County, jurisdiction of magistrates in civil cases extends to cases in which the value of property in controversy or the amount claimed is not more than \$200, except in the Third Magisterial District, where the amount shall not exceed \$1,000.

(2) Any magistrate residing in the City of Anderson, Anderson County, or within seven miles of the corporate limits of the city who has been a practicing lawyer in this state for two years shall have the same jurisdiction as the Court of Common Pleas and the Judges thereof and concurrent therewith in all cases in law *and equity*, special proceedings and others, where the value of the property in controversy or the amount claimed does not exceed the sum of \$1,000, but no jurisdiction in any case where the title to real estate is involved. In criminal cases the jurisdiction of such magistrates may extend to cases where punishment does not exceed a fine of \$500 and/or imprisonment for eighteen months (either or both), with or without hard labor.

(3) Lawyer magistrates in Darlington may determine civil cases where the value of property in controversy, or the amount claimed, does not exceed \$1,000.

(4) In York County, the jurisdiction of magistrates in civil cases extends to cases involving property or an amount claimed of not more than \$300.

(5) In the Bishopville Magisterial District in Lee County, the civil jurisdiction is increased to cases involving property or an amount claimed of not more than \$500.

MUNICIPAL COURTS

(Code, 1952, Secs. 15-901 to 15-1073 and Secs. 15-1501 to 15-1580.)

Judge: Either the mayor serves as judge (or recorder) or the city council elects the judge.

Jurisdiction: The municipal court has criminal jurisdiction only, except in the city of Charleston, where certain civil cases involving an amount claimed of \$100 or less may be determined. In general, the criminal jurisdiction of the municipal court extends only to cases involving offenses against municipal ordinances.

Appeal: Appeal is first to the city or town council, and then to the court of general sessions, except in those counties shown on the chart. Appeals from judgments in civil cases in the recorders court of the City of Charleston are to the Supreme Court.

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PUBLICATIONS

1. A Comparative Analysis of the Constitution of South Carolina (August, 1947) (out of print).
2. Aids for State Legislators (October, 1947) (out of print).
3. South Carolina Public Employee Retirement Systems (December, 1947) (out of print).
4. South Carolina State Constitution Amendment Procedures (March, 1948).
5. Technical Services for South Carolina Governments (June, 1948) (out of print).
6. Columbia City Government (July, 1948) (out of print).
7. Technical Services Directory for South Carolina Officials (December, 1948) (out of print).
8. Metropolitan Charleston (January, 1949).
9. South Carolina State Board of Health (April, 1949).
10. Public Recreation in South Carolina Municipalities (June, 1949).
11. State Personnel Administration in South Carolina (November, 1950).
12. Organization and Jurisdiction of the Courts of South Carolina (June, 1956).

CONSTITUTIONAL BULLETINS

1. Constitutional Conventions: *Organization, Powers and Procedures* (September, 1951).

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1. South Carolina's Natural Resources: A Study in Public Administration (1947).
2. Municipal Government in South Carolina (October, 1950).